

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

TYCO FIRE PRODUCTS LP,

Plaintiff,

v.

AIU INSURANCE COMPANY, *et al.*

Defendants.

Civil Action No. 2:23-cv-02384-RMG

Hon. Richard M. Gergel

ORDER OF DISMISSAL

By Order dated January 2, 2025 (ECF 357), the Court directed the remaining parties in this action to file a joint status report; advised that, in light of recent developments, the Court is “now considering revisiting its earlier decision declining to abstain in favor of the pending Wisconsin state court case”; and requested that the parties submit their positions on the prospect of an abstention in this case.

On January 17, 2025, the remaining parties in this action submitted a Joint Status Report and Response Regarding Abstention, pursuant to the which they provided a joint status report on the progress of settlement discussions; jointly responded that Tyco and the Travelers defendants, which are the only insurer parties to this action with which Tyco has not reached a settlement-in-principle or finalized a settlement, do not object to the Court’s contemplated abstention from exercising jurisdiction over this action at this stage of the proceedings, *provided that* the Court enters an order permitting the production and use of discovery and other documents originally produced, served, or filed in the AFFF MDL to continue in the Wisconsin Action; and consented to the entry of an order dismissing the claims in this action with prejudice with respect to certain Additional Settled Insurers but expressly without prejudice as to all other remaining defendants.

Accordingly, it is hereby ORDERED that:

1. For the reasons stated in the Court's Order dated January 2, 2025 (ECF 357), the authorities cited therein, and the Parties' Joint Status Report and Response Regarding Abstention dated January 17, 2025, the Court hereby determines that it should ABSTAIN from continuing to exercise jurisdiction over this action at this stage of the proceedings.

2. The claims by Tyco Fire Products LP against the following defendants in this action (collectively, the "Additional Settled Insurers") are DISMISSED WITH PREJUDICE:

- (a) **Allianz:** Allianz Global Risks US Insurance Company.
- (b) **Liberty:** Hamilton Insurance Designated Activity Company, Liberty Surplus Insurance Corporation, and Ohio Casualty Insurance Company.
- (c) **SCOR:** General Security Indemnity Company of Arizona.
- (d) **TIG:** TIG Insurance Company.

3. The claims by Tyco Fire Products LP against all other remaining defendants in this action are DISMISSED WITHOUT PREJUDICE, specifically those claims against:

- (a) **Starr:** Starr Indemnity & Liability Company.
- (b) **Travelers:** Travelers Casualty and Surety Company (f/k/a The Aetna Casualty and Surety Company), and The Travelers Indemnity Company.

4. Discovery and other documents that have been or are in the future produced, filed, or served in the matter *In Re Aqueous Film-Forming Foams Products Liability Litigation*, No. 2:18-mn-2873 (D.S.C.) (the "AFFF MDL"), that are responsive to discovery requests served in the litigation pending in state court in Wisconsin under the caption *Century Indemnity Company, et al. v. Tyco Fire Products LP, et al.*, Nos. 2022-cv-000283 and 2023-cv-000190 (Wis. Marinette Cnty. Cir. Ct.) (the "Wisconsin Action") or relevant to issues in the Wisconsin Action may be produced and/or deemed produced in the Wisconsin Action and used in that action without seeking leave in the AFFF MDL or consent of the producing parties. All such documents

shall be subject to the provisions of the Wisconsin Protective Order previously filed in this action at ECF 216-2.

5. This action therefore is DISMISSED, with prejudice to the extent expressly stated above and otherwise expressly without prejudice.

6. Each Party shall bear its own costs.

SO ORDERED this 21st day of January, 2025.

s/ Richard Mark Gergel
Hon. Richard M. Gergel